



AF/JW
JW

PATENT
ATTORNEY DOCKET NO.: 044574-5040-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Patrick C. KUNG et al.

Application No.: 09/830,033

Group Art Unit: 1631

Filed: October 22, 2001

Examiner: Cheyne D. Ly

For: PHYTOMICS: A GENOMIC-BASED APPROACH TO HERBAL COMPOSITIONS

MAIL STOP AF
Commissioner for Patents
U.S. Patent and Trademark Office
Arlington, VA 22202

Sir:

**NOTICE OF APPEAL TO THE
BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the decision of the Examiner dated February 24, 2004, rejecting the following claims 83-87.

1. Extension of Time

Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
<input checked="" type="checkbox"/> three months	\$ 950.00	\$475.00

The Commissioner is authorized to charge the extension fee of \$475.00 to Deposit Account No. 50-0310.

08/18/2004 WABDEL1 00000021 500310 09830033

01 FC:2253 475.00 DA
02 FC:2401 165.00 DA

2. Notice of Appeal Fee - 37 C.F.R. § 1.17(b)

The Commissioner is authorized to charge the appeal fee of \$165.00 to Deposit Account No. 50-0310.

3. Constructive Petition

Except for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §1.16 and §1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. §1.136(a)(3).

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: Erich E. Veitenheimer
Erich E. Veitenheimer
Reg. No. 40,420

Dated: August 16, 2004

CUSTOMER NO. 09629
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004
(202) 739-3000